

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 5327	DATE	2/4/2003
CASE TITLE	Mark Cohen et al. Vs. AM General Corp.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Memorandum Opinion and Order

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion and Order. We must determine, from the complaint that jurisdiction over the case exists. We direct the parties to file briefs within 21 days addressing this issue.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	U.S. DISTRICT COURT CLERK 03 FEB - 7 AM 10:42 01 FEB 2003	number of notices <div style="border: 1px solid black; padding: 2px; text-align: center;">FEB 10 2003</div> date docketed <div style="text-align: center;"> docketing deputy initials </div> date mailed notice mailing deputy initials	<div style="background-color: #cccccc; padding: 5px; text-align: center;">Document Number</div> <div style="font-size: 2em; text-align: center; margin-top: 20px;">31</div>
WAH courtroom deputy's initials			

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No. 02 C 5327

§2301 *et seq.*, does not cover lease transactions of this type and, alternatively, that plaintiffs cannot demonstrate any damages as a matter of law.

It appears from the facts presented by the parties that we do not have jurisdiction over this dispute. The Magnuson-Moss Act does not grant federal courts jurisdiction over suits “if the amount in controversy is less than the sum or value of \$50,000 (exclusive of interests and costs).” 15 U.S.C. § 2310(d)(3)(B). Plaintiffs’ attorney, in an affidavit attached to the amended complaint, states that he believes that the damages are greater than \$50,000. In their amended complaint, however, plaintiffs ask for “[t]he difference between the purchase price of the Hummer and the trade-in allowance for the Hummer, less the value of use of the Hummer by Plaintiffs, diminution in value of the vehicle, and all incidental and consequential damages incurred, including inconvenience and loss of use” (plf’s am.cplt., ¶¶44, 53). Because the plaintiffs purchased the vehicle for \$84,000 and traded it in for \$49,000, their complaint seeks damages of \$35,000,¹ plus any incidental or consequential damages. Nowhere does plaintiff describe these alleged damages or indicate to the court how they could reach the sum of \$15,000. Thus, despite the affidavit, it is not clear that subject matter jurisdiction over this case exists.

While defendant does not dispute plaintiffs’ attorney’s assertion or challenge jurisdiction, the parties cannot agree to jurisdiction. E.E.O.C v. Chicago Club, 86 F.3d 1423, 1428 (7th Cir. 1996) (*citing* Sosna v. Iowa, 419 U.S. 393, 398 (1975)). See Gabriel v. Mitsubishi Motor Sales of America, Inc., 976 F.Supp. 1154 (N.D.Ill. 1997) (holding, in a case nearly

¹This is, of course, the maximum value of plaintiffs’ complaint. They concede that any damages must be offset by the value of use to the plaintiffs. Moreover, in their briefing of the summary judgment motion, plaintiffs concede that the value of their claim (depending on the method of calculation) is likely either \$5,610 or \$11,900, before adding in the consequential and incidental damages (plf. opp. mem. at 19, 21). The briefing on this issue must explain how the complaint could be worth the statutory minimum.

identical factually, that parties must demonstrate a “reasonable probability” that the required amount is in controversy). We must determine, from the complaint that jurisdiction over the case exists.

We direct the parties to file briefs within 21 days addressing this issue.

Feb. 4, 2003.



JAMES B. MORAN
Senior Judge, U. S. District Court